



## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Post-Initial Determinations Regarding Eligibility to Apply for Trade Adjustment Assistance

In accordance with Sections 223 and 284 (19 U.S.C. 2273 and 2395) of the Trade Act of 1974 (19 U.S.C. 2271, et seq.) ("Act"), as amended, the Department of Labor herein presents Notice of Affirmative Determinations Regarding Application for Reconsideration, summaries of Negative Determinations Regarding Applications for Reconsideration, summaries of Revised Certifications of Eligibility, summaries of Revised Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Negative Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Revised Determinations (on remand from the Court of International Trade), and summaries of Negative Determinations (on remand from the Court of International Trade) regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act ("TAA") for workers by (TA-W) number issued during the period of **April 1<sup>st</sup> 2019 through May 31<sup>st</sup> 2019**. Post-initial determinations are issued after a petition has been certified or denied. A post-initial determination may revise a certification, or modify or affirm a negative determination.

## NOTICE OF REVISED CERTIFICATIONS OF ELIGIBILITY

Revised certifications of eligibility have been issued with respect to cases where affirmative determinations and certificates of eligibility were issued initially, but a minor error was discovered after the certification was issued. The revised certifications are issued pursuant to the Secretary's authority under section 223 of the Act and 29 CFR 90.16. Revised Certifications of Eligibility are final determinations for purposes of judicial review pursuant to section 284 of the Act (19 U.S.C. 2395) and 29 CFR 90.19(a).

| TA-W<br>number | Subject firm                        | Location          | Impact<br>date |
|----------------|-------------------------------------|-------------------|----------------|
| 94,491         | Prince Manufacturing<br>Corporation | Sioux City,<br>IA | 1/25/2018      |

## AFFIRMATIVE/NEGATIVE DETERMINATIONS REGARDING APPLICATIONS FOR RECONSIDERATION

The certifying officer may grant an application for reconsideration under the following circumstances: (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous; (2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or (3) If, in the opinion of the certifying officer, a misinterpretation of facts or

of the law justifies reconsideration of the determination. See 29 CFR 90.18(c).

Affirmative Determinations Regarding Applications for Reconsideration

The following Applications for Reconsideration have been received and granted. See 29 CFR 90.18(d). **The group of workers or other persons showing an interest in the proceedings may provide written submissions to show why the determination under reconsideration should or should not be modified. The submissions must be sent no later than ten days after publication in Federal Register to the Office of the Administrator, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N-5428, 200 Constitution Avenue, N.W., Washington, DC 20210. See 29 CFR 90.18(f).**

| TA-W<br>number | Subject firm    | Location       |
|----------------|-----------------|----------------|
| 94,444         | Nestle USA Inc. | Fort Worth, TX |
| 94,354         | iMedX, Inc.     | Atlanta, GA    |

Summary of Statutory Requirement

(This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings,

a reorganization of language, or "and," "or," or other words are added for clarification.)

Section 222(a) - Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or "such firm") have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/ Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path:

(i) the sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II) (aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II) (bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path  
OR Acquisition of Articles or Services from a Foreign Country Path:

(i) (I) there has been a shift by such workers' firm to a foreign country in the production of articles or the supply of

services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

#### Section 222(b) - Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19

U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either-

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm;  
OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)- Firms identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) the workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in--

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1) of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

AND

(2) the petition is filed during the 1-year period beginning on the date on which--

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the Federal Register under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the Federal Register;



AND

(3) the workers have become totally or partially separated from the workers' firm within--

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Revised Certifications of Eligibility

The following revised certifications of eligibility to apply for TAA have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination, and the reason(s) for the determination.

The following revisions have been issued.

| TA-W number | Subject firm                     | Location      | Impact date | Reason(s)                  |
|-------------|----------------------------------|---------------|-------------|----------------------------|
| 93,552      | Penske Logistics                 | El Paso, TX   | 1/22/2017   | Worker Group Clarification |
| 94,509      | Bureau of National Affairs, Inc. | Arlington, VA | 2/4/2018    | Worker Group Clarification |
| 94,086      | Micron                           | Boise, ID     | 12/14/2018  | Worker Group               |

|         |                             |                    |            |                               |
|---------|-----------------------------|--------------------|------------|-------------------------------|
|         | Technology, Inc.            |                    |            | Clarification                 |
| 94,086A | Besi North<br>America, Inc. | Boise, ID          | 8/22/2017  | Worker Group<br>Clarification |
| 94,248  | Loud Audio, LLC             | Woodinville,<br>WA | 10/16/2017 | Worker Group<br>Clarification |
| 94,248A | Loud Audio, LLC             | Auburn, WA         | 10/16/2017 | Worker Group<br>Clarification |
| 93,708  | MOL (America)<br>Inc.       | Woodbridge,<br>NJ  | 4/6/2017   | Worker Group<br>Clarification |
| 93,708A | MOL (America)<br>Inc.       | Atlanta, GA        | 4/6/2017   | Worker Group<br>Clarification |
| 93,708B | MOL (America)<br>Inc.       | Lombard, IL        | 4/6/2017   | Worker Group<br>Clarification |
| 93,708C | MOL (America)<br>Inc.       | Concord, CA        | 4/6/2017   | Worker Group<br>Clarification |
| 93,708D | MOL (America)<br>Inc.       | Gardena, CA        | 4/6/2017   | Worker Group<br>Clarification |
| 93,868  | Smith & Nephew              | Austin, TX         | 6/5/2017   | Worker Group<br>Clarification |
| 93,868A | Smith & Nephew              | Mansfield,<br>MA   | 6/5/2017   | Worker Group<br>Clarification |
| 93,868B | Smith & Nephew              | Andover, MA        | 6/5/2017   | Worker Group<br>Clarification |

|         |                |            |          |                               |
|---------|----------------|------------|----------|-------------------------------|
| 93,868C | Smith & Nephew | Austin, TX | 6/5/2017 | Worker Group<br>Clarification |
|---------|----------------|------------|----------|-------------------------------|

Revised Determinations (after Affirmative Determination Regarding  
Application for Reconsideration)

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

| TA-W<br>number | Subject firm                   | Location          | Impact Date |
|----------------|--------------------------------|-------------------|-------------|
| 93,064         | Locke Insulators,<br>Inc.      | Baltimore, MD     | 8/4/2016    |
| 94,132         | REC Solar Grade<br>Silicon LLC | Moses Lake,<br>WA | 10/19/2018  |
| 94,444         | Nestle USA Inc.                | Fort Worth,<br>TX | 1/4/2018    |

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The requirements of Section 222(e) (firms identified by the International Trade Commission) of the Trade Act have been met.

| TA-W<br>number | Subject firm      | Location     | Impact Date |
|----------------|-------------------|--------------|-------------|
| 93,521         | PCI Nitrogen, LLC | Pasadena, TX | 3/7/2016    |

Negative Determinations on Reconsideration (after Affirmative Determination Regarding Application for Reconsideration)

In the following cases, negative determinations on reconsideration have been issued because the eligibility criteria for TAA have not been met for the reason(s) specified.

The investigation revealed that the criteria under Trade Act section 222(a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) have not been met.

| TA-W<br>number | Subject firm     | Location       | Impact Date |
|----------------|------------------|----------------|-------------|
| 91,248         | Exal Corporation | Youngstown, OH |             |

I hereby certify that the aforementioned determinations were issued during the period of April 1<sup>st</sup> 2019 through May 31<sup>st</sup> 2019. These determinations are available on the Department's website

[https://www.doleta.gov/tradeact/petitioners/taa\\_search\\_form.cfm](https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm)

under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888-365-6822.

Signed at Washington, DC this 11<sup>th</sup> day of June 2019.

**Hope D. Kinglock,**

*Certifying Officer,*

*Office of Trade Adjustment Assistance.*

4510-FN-P

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